

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|--|-------------------------------------|---------------------------|---|---|---------------------------------|
| Investigator: Ariel Courage | Team: Squad #6 | CCRB Case #: 201507253 | <input type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Thursday, 08/27/2015 7:15 AM | Location of Incident: § 87(2)(b) | Precinct: 48 | 18 Mo. SOL 2/27/2017 | EO SOL 2/27/2017 | |
| Date/Time CV Reported Thu, 08/27/2015 1:50 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Thu, 08/27/2015 1:50 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. DT3 James White | 07439 | 929351 | WARRSEC |
| 2. DT3 Michael Greaney | 7490 | 947762 | WARRSEC |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. POM Reginald Smith | 04968 | 939807 | 048 DET |
| 2. DT3 Cornelius Oshea | 741 | 935419 | WARRSEC |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|---|-----------------------------|
| A.DT3 Michael Greaney | Abuse: Det. Michael Greaney entered and searched § 87(2)(b) in the Bronx. | § 87(2)(b) |
| B.DT3 James White | Abuse: Det. James White entered and searched § 87(2)(b) in the Bronx. | § 87(2)(b) |
| C.DT3 James White | Discourtesy: Det. James White spoke rudely to § 87(2)(b) | § 87(2)(b) |

Case Summary

On August 27, 2015, § 87(2)(b) filed this complaint with the CCRB by telephone.

This incident is not captured on video footage.

On August 27, 2015, at approximately 7:15 a.m., two officers, identified by the investigation as Det. James White and Det. Michael Greaney, both of Warrant Section, entered § 87(2)(b)'s home, located at § 87(2)(b), in the Bronx (**Allegations A and B**). Det. White allegedly told § 87(2)(b)'s boyfriend, § 87(2)(b) "Get your shit and your socks and your sneakers on," told him, "Put your fucking shoes on," and, when § 87(2)(b) inquired after his Miranda rights, said, "What the fuck do you think this is, a TV show? I don't have to read you shit." (**Allegation C**)

§ 87(2)(b)'s son, § 87(2)(b) was also present in the apartment and witnessed this incident.

§ 87(2)(b) was arrested (BR 01) and charged with § 87(2)(b).

Mediation, Civil and Criminal Histories

- This case was mediation ineligible due to § 87(2)(b)'s arrest.
- As of October 20, 2015, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with regard to this incident (BR 02).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (BR 06) and § 87(2)(b) (BR 07).
- Det. Greaney has been a member of the service for 7 years. There is only one prior allegation of an entry against Det. Greaney from case 201408590, which was exonerated. In total, there are 28 prior allegations against Det. Greaney across 10 cases from 2010 through the present, the following of which have been substantiated:
 - In case 201017328, allegations of a frisk and search were substantiated and the Board recommended charges. The NYPD disposition for the frisk was instructions. No disciplinary action was taken with respect to the search.
 - In case 201207978, an allegation of physical force was substantiated. The Board recommended charges and the NYPD disposition is pending.
- Det. White has been a member of the service for 14 years. This is the first allegation of an improper entry made against him. There are two prior allegations of discourtesy against him in cases from 2004 and 2009, one of which was withdrawn and the other of which was closed as unsubstantiated. There are 14 prior allegations against Det. White across 8

cases which occurred between 2004 and the present, the following of which have been substantiated:

- In case 200918902, allegations of a threat of arrest and frisk were substantiated. The Board recommended charges for both allegations. The NYPD disposition for the frisk was instructions. The NYPD took no disciplinary action against Det. White with respect to the threat of arrest.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(g)
- § 87(2)(b) said that she followed Det. White, Det. Greaney, and § 87(2)(b) downstairs from her apartment. In the lobby of her building, she heard Det. White, who she also alleged cursed at § 87(2)(b) giving his name to the doorman. § 87(2)(g)

Allegation A – Abuse of Authority: Det. Michael Greaney entered and searched § 87(2)(b), in the Bronx.

Allegation B – Abuse of Authority: Det. James White entered and searched § 87(2)(b), in the Bronx.

It is undisputed that Det. Greaney and Det. White § 87(2)(b)

, in the Bronx, § 87(2)(g)

§ 87(2)(b) (BR 08) said that she was asleep in her bedroom with her boyfriend, § 87(2)(b) when she heard knocking at the door. § 87(2)(b) went to the door but did not answer it. § 87(2)(b) returned to the bedroom and said, “I think I’m going to jail,” and that the police were at the door. § 87(2)(b) then remained in the bedroom while § 87(2)(b) went to the door. § 87(2)(b) has two small dogs that she did not want to escape from the apartment, and so opened it only about three to four inches.

When § 87(2)(b) opened the door, she saw an officer, identified by the investigation as Det. White. Det. Greaney stood slightly behind Det. White. § 87(2)(b) said, “Good morning. Can I help you?” Det. White asked § 87(2)(b) for her name, which § 87(2)(b) provided. Det. White asked § 87(2)(b) who else was home with her. § 87(2)(b) replied that her boyfriend and children were home. Det. White asked for the name of § 87(2)(b)’s boyfriend. § 87(2)(b) replied, § 87(2)(b). Det. White asked, “Can you ask him to come to the door?” § 87(2)(b) said, “Sure.” § 87(2)(b) moved to close the door so that she could go inside and retrieve § 87(2)(b). § 87(2)(b) was unable to fully close the door. § 87(2)(b) thought this could have been because Det. White either was holding it open, or had placed his foot into the three or four inch opening in the door, though § 87(2)(b) did not specifically remember. § 87(2)(b) then turned to walk to the bedroom to retrieve § 87(2)(b). As § 87(2)(b) walked to the bedroom, she turned and realized that Det. White and Det. Greaney had followed her into her apartment. At no point did the officers request her permission to enter, nor did § 87(2)(b) provide them with permission to enter. § 87(2)(b) did not protest their entry, as she was frightened of them and did not want to seem argumentative.

§ 87(2)(b) son, § 87(2)(b) (BR 09), said he was asleep on the sofa in the living room, which is the first room upon entry into § 87(2)(b), when he awoke to the sound of knocking at the front door. § 87(2)(b) answered the door, opening it only slightly, and standing at the opening to prevent the dogs from escaping. § 87(2)(b) could not hear what conversation § 87(2)(b) had with the officers. After approximately four minutes of conversation, § 87(2)(b) said something to the effect of, “Hold on, I’ll go get him.” Although § 87(2)(b) could not recall exactly what his mother said, he recalled the general gist of what she said implied that the officers should stay put. § 87(2)(b) then went to close the door and turned away from the officers. The door did not close fully, though § 87(2)(b) did not know why it did not close. Det. White and Det. Greaney then opened the door fully and followed § 87(2)(b) inside.

§ 87(2)(b) (BR 10) said he went to the door before § 87(2)(b) but then returned to the bedroom. § 87(2)(b) remained in the bedroom while § 87(2)(b) answered the door, and neither saw nor heard how entry was effected.

Det. White (BR 11) did not know how he and Det. Greaney determined that § 87(2)(b) might be found at § 87(2)(b), in the Bronx, and was unaware that there was also an arrest warrant for § 87(2)(b) stating that he was not the primary investigating officer. Det. White denied speaking to § 87(2)(b) directly. Det. White believed Det. Greaney spoke with her at the front door, but did not remember what conversation Det. Greaney and § 87(2)(b) had specifically. At some juncture during this conversation, Det. Greaney asked § 87(2)(b) if he could come inside to speak with her. § 87(2)(b) replied, “Yes, come in.” Upon entry into the apartment, Det. Greaney displayed to § 87(2)(b) a picture of § 87(2)(b). § 87(2)(b) then identified this individual as her boyfriend, and said he was in a rear bedroom of the apartment.

Det. Greaney (BR 12) acknowledged that the i-card and arrest warrant listed § 87(2)(b), as § 87(2)(b) s primary address. Det. Greaney said that he and Det. White visited another apartment inside of § 87(2)(b) – Det. Greaney did not remember whether it was § 87(2)(b), or another apartment – where they spoke with § 87(2)(b) s mother. § 87(2)(b) s mother informed Det. Greaney that § 87(2)(b) was staying with his girlfriend in § 87(2)(b), which Det. Greaney and Det. White thereafter visited.

Det. Greaney knocked on the door and heard an individual come to the door without answering it. About a minute later, § 87(2)(b) came to the door. Det. Greaney identified himself as a police officer, and asked who else besides § 87(2)(b) was home. § 87(2)(b) replied that her boyfriend and children were home. Det. Greaney asked for § 87(2)(b) s boyfriend’s name. When § 87(2)(b) replied, § 87(2)(b) Det. Greaney told § 87(2)(b) that he needed to speak with him, and asked if he could come inside. § 87(2)(b) replied with something to the effect of, “Come in, he’s in the bedroom.” Det. Greaney did not remember § 87(2)(b) s exact phrasing. Det. Greaney then followed § 87(2)(b) into the apartment. § 87(2)(b) never attempted to shut the door on them, and never told them they could not enter. Det. Greaney’s account was generally corroborated by the DD5 Det. Greaney subsequently prepared (BR), though it does not specify whether or not consent was granted to enter the premises.

An ADWS inquiry (BR 13) confirms that while § 87(2)(b) had both an active arrest warrant and i-card at the time of this incident, the address listed on both was § 87(2)(b).

An arrest warrant founded on probable cause affords the police officer the limited authority to enter a dwelling in which the subject of the arrest warrant lives when there is reason to believe that he is within. In order to demand entry to the dwelling of a third party to execute an arrest warrant for an individual, the officer must have additionally possessed a search warrant. Without a search warrant, an officer may only permissibly enter the dwelling of a third party in order to execute an arrest warrant either with the consent of an authorized party or under exigent circumstances. People v. Rodriguez, 2008 N.Y. Slip Op 28047 (Crim. Ct. New York Cty., 2008) (BR 14) An individual's consent to enter their residence may be established by conduct as well as words. An individual engaging an officer near the entry to their residence, then entering the residence without verbally or physically attempting to impede an officer's immediate subsequent entry into the residence, constitutes implied consent to the officer's entry. People v. Smith, 239 A.D.2d 219, 658 N.Y.S.2d 259 (1997) (BR 15)

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Discourtesy: Det. James White spoke rudely to § 87(2)(b)

§ 87(2)(b) (BR 08) alleged that upon entry into the bedroom, Det. White told § 87(2)(b) "Get your shit and your socks and your sneakers on." § 87(2)(b) further alleged that as Det. White and Det. Greaney escorted § 87(2)(b) to the elevator, § 87(2)(b) inquired after his Miranda rights, to which Det. White replied, "What the fuck do you think this is, a TV show? I don't have to read you shit."

§ 87(2)(b) (BR 09) closely corroborated § 87(2)(b)'s allegations.

§ 87(2)(b) (BR 10) alleged that upon entry into the bedroom, Det. White told him, "Put your fucking shoes on." § 87(2)(b) said he never asked about his Miranda rights and made no further allegations of profanity.

Det. White (BR 11) and Det. Greaney (BR 12) both denied using profanity during this incident.

§ 87(2)(g)

Pod:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date